# Exhibit B
# Declaration of Chris Harvey

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DONNA CURLING, et al.,

Plaintiffs,

v.

BRIAN KEMP, et al.,

Defendants.

CIVIL ACTION FILE

NO. 1:17-CV-02989-AT

## DECLARATION OF CHRIS HARVEY REGARDING VOTING MACHINE DATA PRESERVATION ISSUES

Pursuant to 28 U.S.C. § 1746, CHRIS HARVEY, Elections Director in the office of the Secretary of State for the State of Georgia, declares as follows:

1.  I make this Declaration in support of a response by DeKalb County Board of Elections to certain motions filed in the above-styled matter of Donna *Curling, et al., v. Brian Kemp, et al,* (Civil Action No. 1:17-cv-2989-AT). Specifically, the purpose of this Declaration is to explain certain election processes regarding: (1) How poll workers configure voter ballots during Advance Voting in DeKalb County; (2) Why a particular voter's concern was likely the result of a poll worker inadvertently selecting an incorrect field on a

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drop-down menu; and (3) How memory card data is preserved and handled at the conclusion of Election Day and/or for purposes of election recounts.

2.     On Saturday, May 5, 2018, at approximately 2:00 P.M., I arrived at a polling place located in South DeKalb Mall.  My purpose was to inquire into a report that in the previous afternoon during Advanced Voting for the May 2018 statewide primary elections, a voter at that polling location had, upon inserting his voter access card into the DRE machine, noticed that his ballot displayed election choices that included races for which the elector did not believe he was an eligible voter, specifically options to vote in the 5th Congressional District.

3.     During Advanced Voting, DeKalb County follows a different ballot-creation process than it uses during Election-Day voting.  On Election Day, a voter at a DeKalb County polling station would have a ballot generated specific to that voter's district combination and precinct through a program called ExpressPoll.  However, during Advanced Voting, poll workers in DeKalb County must use ExpressPoll to manually create a voter access card specific to the voter's district combination and precinct after confirming the individual voter's information on ENET.

      a. To do this, the pollworker uses the voter's information on ENET to manually select on the correct ballot precinct on the ExpressPoll.

      b. During Advance voting, the poll worker must look up the voter on the statewide voter registration system, ENET, and determine the voter's

district combination and precinct. The poll worker must then manually select the correct ballot precinct through a list displayed on the ExpressPoll touchscreen. Once selected, the poll worker must then select the ballot of the party the voter has requested. The poll worker then touches "create voter card" and inserts a voter access card. When the voter access card is created, the ExpressPoll then shows what specific ballot precinct and ballot style will be brought up by the DRE when the voter access card is inserted into the DRE used for voting.

4.     It was reported to me that, upon noticing the discrepancy in his ballot, the voter signaled the problem to a poll worker who canceled the ballot on the DRE, confirmed the voter's districting information on ENET, and issued the voter a newly configured voter access card, which he then inserted into a different DRE voting machine.  At that time, the voter signaled (with a "thumbs-up" gesture), that his ballot appeared correct and proceeded to complete his vote without further issue.

5.     Upon arriving at the polling location, I spoke with four poll workers who dealt with the voter in question, each of whom had some memory of the events that were described to me as follows:

   a.  One poll worker handled the voter's application and wrote his district combination and precinct on his application.

   b.  A second poll worker programmed the first voter access card said that she used ExpressPoll like she always did.

   c.  A third poll worker interacted with the voter when he recognized his ballot was not correct. The voter signaled to her, she approached him, and heard his concern.  The voter expressed that he knew himself to

live within the 6th Congressional District, but that his ballot offered him a vote in the 5th Congressional District. The poll worker cancelled his un-voted ballot, then brought the voter to the computer area. She looked the voter up in ENET to confirm his voter information. Upon confirmation, she generated a new voter access card for the voter and presented it to him.

d. A fourth poll worker (also the poll manager), then accompanied the voter to the DRE. The voter inserted the card and gave the manager a "thumbs-up" signal after looking at the ballot. He voted, then left the polling place.

6. Together with DeKalb County's Election Director, Ms. Erica Hamilton, I examined DeKalb County's ExpressPoll. We compared the ballot precinct the male voter should have been assigned to the ballot precinct directly above and below as they were displayed on the ExpressPoll touchscreen. The ballot precinct directly above the proper one had candidates that would have been in the 5th Congressional District, the selection of which led to the discrepancy that had led the male voter to identify a problem.

7. I understood that, out of an abundance of caution, DeKalb County took the two DRE machines out of further service during the remainder of voting in the May 2018 election. When that occurs, the normal procedure would be to seal the DRE units and remove them from service.

8. However, the memory cards would still need to be accessed at the conclusion of the election in order to count the votes. They would have to be accessed again in order to conduct a recount, as occurred here. The memory

cards from those DRE's would have been inserted into another DRE connected to a GEMS server in order to count the votes. Once uploaded into GEMS, the results of the ballots collected by the DRE and saved to the memory cards are saved to GEMS.

9.      During a recount, the memory cards used during the election must be uploaded to GEMS again.

10.     Based upon my involvement in the above events, my knowledge of election systems processes, my familiarity with these matters in general, and my personal knowledge of the matters contained in this Declaration, it is my belief that:

   a. The most probable explanation of the ballot-configuration issue regarding the above-described male voter was that the second poll worker, in programming the first voter access card using the ExpressPoll device, inadvertently manually selected the ballot precinct directly above the proper ballot precinct for the voter, thus generating a ballot on the voter's first voter access card that presented a vote for the 5th Congressional District. Such an inadvertent manual-selection would have nothing to do with the functionality, accuracy or reliability of either the memory card or DRE machine themselves, but is attributable to touching the screen slightly above the intended target and a poll worker not confirming his or her selection.

   b. Removing the memory cards from the DREs to count the votes on election day and again during a recount does not harm or "overwrite" the data contained on the memory cards.

   I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.

Executed this 28 day of June , 2018.

CHRIS HARVEY
*Elections Director, in the office of the*
*Secretary of State for the State of*
*Georgia*